

## **REMARKS**

In the present response, the specification and Fig. 1 of the drawings have been amended. In addition, claims 19 and 24 have been canceled and claims 17, 18, 21, 22, 38-40, and 42 have been amended. As such, claims 17, 18, 20-23, 25-29, and 38-44 remain pending in the captioned case. Further examination and reconsideration of the presently claimed application are respectfully requested.

### **Section 112 Rejection**

Claims 17-29 and 38-44 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applications regards as the invention. In particular, claims 17 and 38 were rejected for various antecedent basis problems. To expedite prosecution, claims 17 and 38 have been amended in a manner believed to address the concerns in the Office Action about those claims. Claims 18, 19, 21-29, and 39-44 appear to be rejected solely for being dependent on a rejected base claim. As noted above, claims 19 and 24 have been canceled rendering rejection thereto moot.

In addition, claims 17, 18, 20, 22, and 38 were further rejected for containing the term "substantially". In particular, the Examiner suggests that the term "substantially" is a relative term which renders the claims indefinite, because the term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Although claims 18 and 22 have been amended to remove the term "substantially" (for clarification purposes only), the Applicant's disagree with the Examiner on the use of relative terminology, in general, and the term "substantially," in particular.

With regard to relative terminology, MPEP 2173.05(b) states that "[t]he fact that claim language ... may not be precise does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. *Seattle Box Co., v. Industrial Crating & Packing, Inc.* 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.

In addition, MPEP 2173.05(b) states that "[t]he term 'substantially' is often used in conjunction with another term to describe a particular characteristic of the claimed invention. *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). On numerous occasions, the court has ruled that the term "substantially equal" is definite because one of ordinary skill in the art would know what was meant by "substantially equal". See, e.g., *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988). By the same reasoning, Applicants assert that the term "substantially equal" in claim 20 and the term "substantially equaling" in claims 17 and 38 should also be considered to be definite. Accordingly, Applicants respectfully request removal of this rejection.

### **Allowable Subject Matter**

Claims 38-44 are considered to be allowable, if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph. In addition, claims 19, 24, 27, and 29 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant sincerely appreciates the Examiner's recognition of the patentable subject matter recited in these claims and awaits allowance of the remaining claims in the case.

As set forth below, all limitations of allowed claim 19 has been incorporated into base claim 17. Accordingly, Applicants assert that independent claims 17 and 38, as well as claims dependent therefrom, are now in condition for allowance.

### **Section 102 Rejection**

Claims 17, 18, 20-23, 25, 26, and 28 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,586,299 to Wakerly (hereinafter "Wakerly"). As noted above, independent claim 17 has been amended to include subject matter deemed allowable. In particular, independent claim 17 has been amended to contain the allowable subject matter recited in claim 19: "wherein at least some inputs have their information applied to all said memories at least once, and to at least some of said memories at least twice."

Applicants agree that the cited art fails to teach the various features set out in amended independent claim 17. As described on page 5 of the Office Action, the Examiner indicates that claims containing allowable subject matter (such as amended independent claim 17) would be allowed and,

as such, the undersigned anticipates that a Notice of Allowance is forthcoming. No amendments were made to the claims which would warrant further examination since a previously examined dependent claim (claim 19) was inserted into the present independent claim – the dependent claim noted as being allowable in the previous Office Action.

### **CONCLUSION**

The present amendment and response is believed to be a complete response to the issues raised in the Office Action mailed June 7, 2005. If the Examiner has any questions, comments, or suggestions, the undersigned earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Daffer McDaniel, LLP Deposit Account No. 50-3268/5298-13700.

Respectfully submitted,



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